

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 12, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #1558B

**PROPOSAL:** To allow the sale of alcoholic beverages for consumption both on and off the premises at Big Red Keno Sports Bar and Grill.

**CONCLUSION:** This request complies with all applicable criteria of LMC Section 27.63.680 for both a special permit for the sale of alcohol for consumption on the premises, and LMC Section 27.63.685 for a special permit for the sale of alcohol for consumption off the premises.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 78 I.T. in the NW 1/4 of Section 27, T10N, R6E, Lancaster County, Nebraska.

**LOCATION:** 955 West O Street

**EXISTING ZONING:** I-1 Industrial

**EXISTING LAND USE:** Commercial

### **SURROUNDING LAND USE AND ZONING:**

North:	Commercial	H-3
South:	Commercial	I-1
East:	Commercial	I-1
West:	Commercial	I-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates industrial land uses on this site.

**HISTORY:** **August 19, 1996** - Special Permit #1558A was approved to expand the area where the sale of alcohol for consumption on the premises was allowed to include the outdoor volleyball court.

**May 1, 1995** - Special Permit #1558 was approved allowing the sale of alcohol for consumption on the premises.

**1979** - The zoning was changed from L - Heavy Industrial to I-1 Industrial with the 1979 zoning update.

**BACKGROUND:** A special permit was approved in 1995, and amended in 1996 granting Big Red Keno Sports Bar and Grill the authority to sell alcohol for consumption on the premises. This new request has two components. The first seeks to expand the area where the sale of alcohol for consumption on the premises is allowed to include a 10' x 24' outdoor smoking area (see the cross-hatched area on the attached site plan). The second is to allow the sale of alcohol for consumption off the premises over the same area that on-sale is allowed, authority which was not previously granted under the existing special permit.

### **ANALYSIS:**

#### **1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)**

**27.63.680:** Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.**

The licensed premises includes both the sports bar and the volleyball courts. Off-street parking is required for both components of the use. Parking for the bar is calculated at one space per 100 square feet of floor area, and the parking for the volleyball court is four spaces per court. The bar plus the outdoor smoking area requires 69 spaces, plus four more for the volleyball court. A total of 158 spaces are provided on site, well in excess of the 73 spaces required.

**(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.**

The issuance of a separate special permit to allow the sale of alcohol for consumption off the premise has also been requested and is included in the second half of this report.

**(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).**

This request is in excess of 100' from a day care facility, park, church, state mental health institution, or a residential district. The nearest of these is the R-2 district north of West P Street in excess of 500' away.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

Both outdoor lighting and parking lot lighting is regulated by City of Lincoln Design Standards. Chapter 3.45 - Design Standards for Parking Lots contains the standards for parking lot lighting. Chapter 3.55 - Design Standards for Recreational Facilities Section 5 - Outdoor Recreational Lighting contains the standards for lighting associated with all outdoor recreation facilities. The design standards for outdoor recreational facilities require that no outdoor facility be illuminated after 12:00 midnight. Compliance with these standards is reviewed at the time of building permits and is mandatory regardless of whether alcohol is consumed on the premises or not.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not included as part of this application.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

The premises is in excess of 150' from a residential district.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 500' away from the site.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the premises is from West O Street which is not considered a "residential street" at this location.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

**Planning Commission approval is required for this use.**

## **2. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)**

**27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

In this case, parking is calculated using the same standard for on-sale, and 73 spaces are required. As noted in Section 1(a) above, 158 spaces are provided, well in excess of the number required.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.**

This application is for a special permit to allow the sale of alcohol for consumption off the premises. A separate special for the sale of alcoholic beverages for consumption on the premises is also being requested and is part of this review.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district.**

This request is in excess of 100' from a day care facility, park, church, state mental health institution, or a residential district. The nearest of these is the R-2 district north of West P Street in excess of 500' away.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

Both outdoor lighting and parking lot lighting is regulated by City of Lincoln Design Standards. Chapter 3.45 - Design Standards for Parking Lots contains the standards for parking lot lighting. Chapter 3.55 - Design Standards for Recreational Facilities Section 5 - Outdoor Recreational Lighting contains the standards for lighting associated with all outdoor recreation facilities. The design standards for outdoor recreational facilities require that no outdoor facility be illuminated after 12:00 midnight. Compliance with these standards is reviewed at the time of building permits and is mandatory regardless of whether alcohol is sold for consumption off the premises or not.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not included as part of this application.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to**

**the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

The premises is in excess of 150' away from a residential district.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 500' away from the site.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the premises is from West O Street which is not considered a "residential street" at this location.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

**Planning Commission approval is required for this use.**

## **2. DEPARTMENT RESPONSES:**

**POLICE:** The Police Department had no objection to this request.

**PUBLIC WORKS:** Public Works had no objection to this request.

**HEALTH:** The Health Department recommends at least 20% open space relative to the total area of all four the walls and ceiling to provide adequate ventilation for the protection of public health for the proposed outdoor smoking area.

## **CONDITIONS:**

### Site Specific:

1. This approval is for special permits for the expansion of the sale of alcohol for consumption on the premises to include an outdoor smoking area and permits the sale of alcohol for consumption off the premises as designated on the site plan.

### General:

2. Before receiving building permits:
  - 2.1 The construction plans comply with the approved plans.

### Standard:

3. The following conditions are applicable to all requests:
  - 3.1 Before the sale of alcohol for consumption on and off the premises, all development and construction is to comply with the approved plans.
  - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative

amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

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Brian Will, AICP, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
Planner  
September 26, 2005

**OWNER:** Larry Coffey  
730 Lakeshore Drive  
Lincoln, NE 68528  
402.474.1669

**APPLICANT** Pickfair Entertainment Corp. dba Big Red Keno Sports Bar and Grill  
11248 John Galt Blvd  
Omaha, NE 68137  
402.339.1200

**CONTACT:** William Harvey  
11248 John Galt Blvd  
Omaha, NE 68137  
402.339.7776  
5210 NW 7<sup>th</sup> Street  
Lincoln, NE 68521  
(402) 770-2227



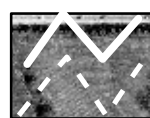
2005 aerial

## Special Permit #1558B SW 9th & W 'O' St.

### Zoning:

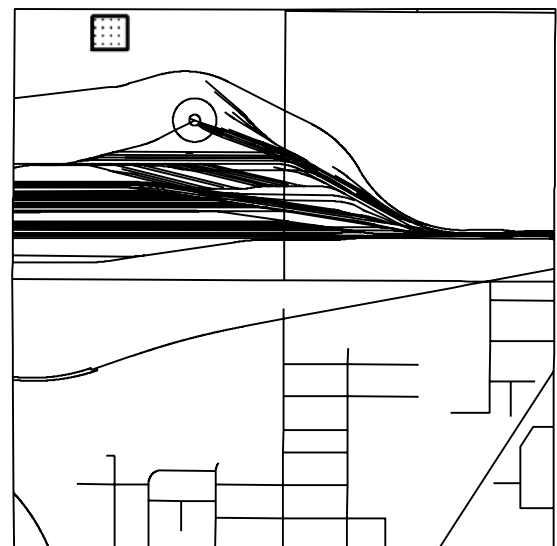
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 27 T10N R6E



Zoning Jurisdiction Lines

City Limit Jurisdiction



# SITE PLAN

BIG RED KENO  
906 WEST 'O' STREET  
LINCOLN, NEBRASKA

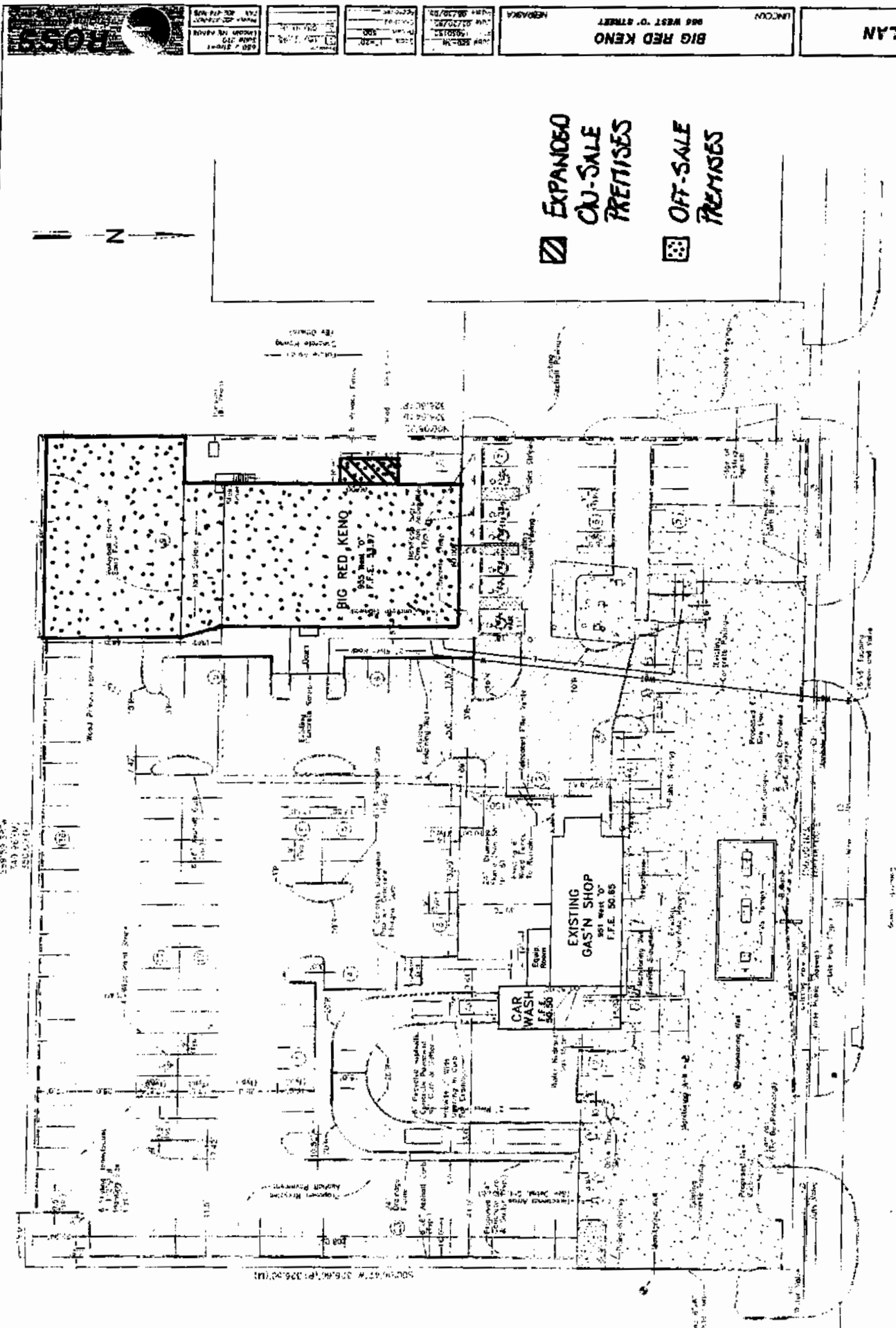
EXPANDED  
ON-SALE  
PREMISES

OFF-SALE  
PREMISES

STREET

0'

WEST



# Purpose Statement

This application requests a special permit for the sale of alcohol under 27.63.680 (on premises) and 27.63.685 (off premises) as an addition to Special Permit 1558A, which has been in continuous use by Big Red Keno Sports Bar & Grill since 1995.

Big Red Keno Sports Bar & Grill is located at 955 West O Street in Lincoln. The location serves as the main location for the City of Lincoln's keno lottery operation. As such it is the largest location in terms of keno ticket sales in Lincoln. It is also the location where winning numbers are selected and transmitted to 33 satellite locations around Lincoln, and the location where wins over \$500 are cashed.

Big Red provides liquor service in connection with the keno game as required by the Lottery Operator Agreement with the City of Lincoln.

Studies by Big Red have shown that over 80% of Big Red's patrons are smokers. Big Red has experienced a substantial downturn in both keno play and food and beverage sales following enactment of the public smoking ban in the City of Lincoln. In response, Big Red has created two separate outdoor smoking areas to accommodate smoking customers. One of those areas was established in an outdoor area that was already covered by the special use permit and liquor license. The other, smaller outdoor smoking area is the subject of this application.

**27.63.680.** Zoning for the location is I1, and thus alcoholic beverage sales for consumption on the premises are permitted, subject to the criteria of 27.63.680, which are met as follows:

- (a) **Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.** Current gross floor area of the licensed premises is 6,650 square feet inside and 6,540 square feet outside. The premises have 158 on-site parking spaces, which exceeds the required ratio. This application proposes to add 240 square feet to the licensed area as an outdoor smoking area, yielding a total gross area of 13,430 square feet, after which the number of on-site spaces will still exceed the required ratio.
- (b) **The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a separate special permit under Section 27.63.685 of this code.** This application asks for the special permit to be issued under 27.63.680 and 27.63.685.
- (c) **The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).** Neither the outdoor smoking area which is the subject of this application, nor any portion of the licensed premises is within 100

feet of any day care facility, park, church, state mental health institution, or residential district.

- (d) **Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.** All lighting on the outdoor smoking area and the licensed premises meets the applicable regulations and requirements.
- (e) **Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.** Neither the outdoor smoking area nor any part of the licensed premises have any drive-through window operation.
- (f) **The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district.** This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers or telephones. No such outside sound source for the outdoor smoking area is contemplated. In any event, there is no residential district within 150 feet of the licensed premises.
- (g) **No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district.** This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment. There is no residential district within 150 feet of the proposed outdoor smoking area, or any part of the licensed premises.
- (h) **Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district.** Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets. All vehicular ingress and egress to and from the premises is from West "O" Street (US Highway 6). There is no nearby residential district.
- (i) **All other regulatory requirements for liquor sale shall apply, including licensing by the state.** All regulatory requirements for the sale of liquor are met, and the state license application is being filed in connection with this application.
- (j) **The City Council may consider any of the following as cause to revoke the special permit approved under these regulations: (1) Revocation or cancellation of the liquor license for the specially permitted premises; (2) Repeated violations related to the operation of the permittee's business; or (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on the site, drunkenness, vandalism, solicitation, or litter.** None of these conditions exist at the premises.

**27.63.685.** Zoning for the location is I1, and thus alcoholic beverage sales for consumption off the premises are permitted, subject to the criteria of 27.63.685, which are met as follows:

- (a) **Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.** The requirement for parking under the relevant section is 1 space per 100 square feet of gross floor area. Current gross floor area of the licensed premises is 6,650 square feet inside and 6,540 square feet outside. The premises have 158 on-site parking spaces, which exceeds the required ratio. This application proposes to add 240 square feet to the licensed area as an outdoor smoking area, yielding a total gross area of 13,430 square feet, after which the number of on-site spaces will still exceed the required ratio.
- (b) **The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.** This application asks for the special permit to be issued under 27.63.680 and 27.63.685.
- (c) **The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility park, church, state mental health institution, or a residential district.** Neither the outdoor smoking area which is the subject of this application, nor any portion of the licensed premises is within 100 feet of any day care facility, park, church, state mental health institution, or residential district.
- (d) **Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.** All lighting on the outdoor smoking area and the licensed premises meets the applicable regulations and requirements.
- (e) **Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.** Neither the outdoor smoking area nor any part of the licensed premises have any drive-through window operation.
- (f) **The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers or telephones.** No such outside sound source for the outdoor smoking area is contemplated. In any event, there is no residential district within 150 feet of the licensed premises.
- (g) **No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.** There is no residential district within 150 feet of the proposed outdoor smoking area, or any part of the licensed premises.
- (h) **Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of**

**residential streets for access to the site instead of major streets. All vehicular ingress and egress to and from the premises is from West "O" Street (US Highway 6). There is no nearby residential district.**

- (i) All other regulatory requirements for liquor sale shall apply, including licensing by the state. All regulatory requirements for the sale of liquor are met, and the state license application is being filed in connection with this application.**
- (j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations: (1) Revocation or cancellation of the liquor license for the specially permitted premises; or (2) Repeated violations related to the operation of the permittee's business. None of these conditions exist at the premises.**

Based on the foregoing, we request the City's prompt granting of the special permit requested by this application.



Status of Review: Active

Reviewed By Building & Safety

ANY

Comments:

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Status of Review: Approved

09/19/2005 2:30:36 PM

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION

TO: Brian Will DATE: September 19, 2005

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Big Red Keno

EH Administration SP #1558A

The Lincoln-Lancaster County Health Department has reviewed the special permit application with the following noted:

Regarding outdoor smoking areas, the LLCHD recommends at least 20 percent open space relative to the total square footage of all four walls and ceiling area to provide adequate ventilation for the protection of public health.

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Status of Review: Approved

09/26/2005 10:58:07 AM

Reviewed By Lincoln Police Department

NCSBJW

Comments: Mr. Will,

The Lincoln Police Department does not object to the Big Red Keno-SP1558A project.

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Status of Review: Routed

Reviewed By Planning Department

SARA HARTZELL

Comments:

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Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

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Status of Review: Active

Reviewed By Planning Department

BRIAN WILL

Comments:

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Status of Review: Complete

09/08/2005 9:15:11 AM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum□□  
□

To:□Brian Will, Planning Department  
From:□Charles W. Baker, Public Works and Utilities  
Subject:□Big Red Keno Special Permit #1558A  
Date:□September 8, 2005  
cc:□Randy Hoskins  
□

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for a proposed outdoor smoking area for Big Red Keno Special Permit #1558A located at 955 West 'O' Street. Public Works has the no objections.

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